

TESTIMONY OF
JAMES P. GRIFFIN, Ph.D.
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII

TO THE
SENATE COMMITTEES ON
ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM
AND
HIGHER EDUCATION
AND
WATER AND LAND

February 13, 2019
3:00 p.m.

Chairs Wakai, Kim, and Kahele and Members of the Committees:

MEASURE: S.B. No. 364

TITLE: RELATING TO TOURISM.

DESCRIPTION: Beginning July 1, 2022, requires persons who use the Na Ala Hele trail system for commercial purposes and applicants for new and renewal commercial use permits in state parks, small boat harbors, and ocean recreation management areas; instructor/operator permits; and common carrier certificates and contract carrier permits covering the transportation of passengers to hold and annually maintain a sustainable tourism certificate from the Hawaii Ecotourism Association, achieve and maintain green business recognition by the Hawaii Green Business Program, and ensure that at least one-third of staff members employed by the applicant who have direct contact with visitors are certified as professional tour guides. Requires the University of Hawaii to update the certification for professional tour guides curriculum and examination, subject to approval by the aha moku advisory committee, by June 30, 2020, and every ten years thereafter. Requires recertification and renewal of certification for professional tour guides every two years.

POSITION:

The Public Utilities Commission offers the following comments for consideration.

COMMENTS:

During the last fiscal year, the Public Utilities Commission (“Commission”) regulated 1,040 passenger motor carriers. Passenger motor carriers have a wide variety of offered services and activities, for which a sustainable tourism certificate or a green business program recognition may not be applicable. The Commission observes that this measure may require all passenger motor carriers, regardless of service and activity provided, to comply.

In addition, the Commission is not currently equipped to enforce the professional tour guide staffing requirements for passenger motor carriers in Sections 5 and 6 of this measure.

Thank you for the opportunity to testify on this measure.



DAVID Y. IGE
GOVERNOR

MIKE MCCARTNEY
DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
MIKE MCCARTNEY
Director

Department of Business, Economic Development, and Tourism
before the

SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM
SENATE COMMITTEE ON HIGHER EDUCATION
AND
SENATE COMMITTEE ON WATER AND LAND

Wednesday, February 13, 2019
3:00 PM

State Capitol, Conference Room #414

In consideration of
SB 364
RELATING TO TOURISM

Chairs Wakai, Kim, and Kahele, Vice Chairs Taniguchi, Kidani, and Keith-Agaran, and members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) appreciates the intent of and provides **comments** on SB 364 that requires persons who use the state park systems or the Na Ala Hele trail system for commercial purposes and applicants for new and renewal commercial use permits in small boat harbors, and ocean recreation management areas; instructor/operator permits; and common carrier certificates and contract carrier permits covering the transportation of passengers, to hold and annually maintain a sustainable tourism certificate from the Hawaii Ecotourism Association, and achieve and maintain green business recognition by the Hawaii Green Business Program, effective July 1, 2022.

DBEDT has concerns that these proposed requirements for permits for commercial purpose in the state park system and in the Na Ala Hele trail system may unintentionally impact our tourism industry, while also affecting the film office's ability to continue to issue film permits for the these state sites.

We respectfully request amendments to the bill to ensure that film permits may continue to be issued without meeting the proposed requirements. The requested amendments are:

- 1) Adding in a new subsection (d) in Part II, Section 2 of the bill: “(d) This section shall not apply to any commercial activity authorized pursuant to section 201-14.”
- 2) Adding in a new subsection (c) in Part II, Section 3 of the bill: “(c) This section shall not apply to any commercial activity authorized pursuant to section 201-14.”
- 3) Adding in a new subsection (e) in Part II, Section 4 of the bill: “(e) This section shall not apply to any commercial activity authorized pursuant to section 201-14.”

We also note that while certification by the Hawaii Ecotourism Association and recognition under the Hawaii Green Business Program is very appropriate for tour operators and their offices, it may be less related to the transportation carriers.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committees on
ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM
and
HIGHER EDUCATION
and
WATER AND LAND**

**Wednesday, February 13, 2019
3:00 PM
State Capitol, Conference Room 414**

**In consideration of
SENATE BILL 364
RELATING TO THE TOURISM**

Senate Bill 364 proposes, beginning July 1, 2022, to require persons who use the Na Ala Hele Trail System for commercial purposes and applicants for new and renewal commercial use permits in state parks, small boat harbors, and ocean recreation management areas; instructor/operator permits; and common carrier certificates and contract carrier permits covering the transportation of passengers to hold and annually maintain a sustainable tourism certificate from the Hawaii Ecotourism Association, achieve and maintain green business recognition by the Hawaii Green Business Program, and ensure that at least one-third of staff members employed by the applicant who have direct contact with visitors are certified as professional tour guides. Requires the University of Hawaii to update the certification for professional tour guides curriculum and examination, subject to approval by the aha moku advisory committee, by June 30, 2020, and every ten years thereafter. Requires recertification and renewal of certification for professional tour guides every two years. **The Department of Land and Natural Resources (Department) appreciates the intent of this measure and offers the following comments.**

The Department agrees that insuring optimal quality and authenticity of informational content for the Hawaii tourism industry is a critical goal. In particular—when authorized tour guides transit Department lands the respective Divisions – in addition to insuring patron safety, also prefer that the guides are knowledgeable in both natural and cultural resources information and values.

This measure has direct mandates for four of the Department’s divisions and programs: Divisions of State Parks (DSP), Boating and Ocean Recreation (DOBOR), Forestry and Wildlife Na Ala Hele Program (NAH) and the Aha Moku Advisory Council (AMAC).

Each of the three Divisions have a different process and experiences in regard to allowing and regulating commercial tour activities.

For example, a concern is with PART III, SECTION 8, of the measure that requires the University of Hawaii to maintain within the community college system a certification for professional tour guides program sufficient to meet the demand for enrollment. DOBOR had a similar requirement with tow-in surfing certification in their rules that required the course be offered by an institution of higher learning. The issue was that the community college would not hold a course unless there were a sufficient number of students enrolled. This resulted in people having to wait quite a while to get their certificate. Subsequently, DOBOR amended the rules to allow for the course to be offered by online course providers. In this manner potential permittees can complete the course at their leisure and don’t have to wait for the community college to offer the training.

However, with NAH permitted commercial trail tours there are many who voluntarily maintain a sustainable tourism certificate from Hawaii Ecotourism Association (HEA). The practice of promoting responsible travel and educational programs related to sustainable tourism is a concept already in place – even absent the statutory mandate. Within NAH Hawaii Administrative Rules – a requirement could include HEA or equivalent sustainable tourism certificate. Such certification may best be determined by NAH to accurately reflect the type of commercial use on our trails and explore similar sustainable tourism certificates other than HEAs.

DSP has several commercial kayak tours guides that are authorized to transit DSP park units. Rather than a statutory mandate, future offerings via request for proposals or invitation for bid could include the requisite HEA certificate as a condition to participate in the process. In addition, there are PUC tour companies statewide that transit DSP park units and in several pay a parking or entrance fee – the Department defers to that industry as to the feasibility of this proposed statutory program. DSP is evaluating statewide permits process to further regulate and simply keep track of all the commercial bus tours that transit park units - an HEA certificate could be condition of a future permit.

AMAC believes that their extended cultural representatives would be enthusiastic about this opportunity to provide culturally authentic training about a specific place where a tour would occur. However, due to the nature of the AMAC perspective that the lineal descendent of a specific geographic location should be consulted – it makes a curriculum development very

impractical. For example, simply on Hawaii Island, there are 6 moku and 197 ahupua'a so the feasibility of generational families assisting with the historic and traditional cultural knowledge of a site comes into play. On Kauai, there are 8 moku and 69 ahupua'a. A generic and standardized curriculum developed by AMAC and administered by UH would be virtually untenable to establish.

The Department has been in communication with HEA. They were unaware of this measure and have expressed some concern regarding their organization's capacity to perform to the expectation described in the measure. Like the Department, HEA supports the intent but do not entirely agree with some of the language. However, HEA seems willing to develop a program that would streamline the process and eliminate the impediments that have been described. As such, HEA expressed support of a Resolution for the development of a task force on the issue.

Given that HEA is the obligated entity to establish this certificate, the Department concurs that this concept would be more successful in fulfilling the goals as a Resolution creating a task force to accomplish this objective.

Thank you for the opportunity to comment on this measure.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Energy, Economic Development and Tourism
Senate Committee on Higher Education
Senate Committee on Water and Land
February 13, 2019 at 3:00 p.m.

By
John Morton
Vice President for Community Colleges
University of Hawai'i System

SB 364 – RELATING TO TOURISM

Chairs Wakai, Kim, and Kahele, Vice Chairs Taniguchi, Kidani and Keith-Agaran, and members of the committees:

The University of Hawai'i is sympathetic to many of the elements of this bill. In particular, the interest in emphasizing management of Hawaii's resources as opposed to solely marketing resources is laudable, although marketing remains an important part of any kind of tourism. In addition, professional certifications are often valuable to meet industry standards, to ensure safety, and to address liability issues, so this also seems positive. The University has experience in these areas since UH must respond to many outside accreditation agencies, such as engineering, and other agencies that establish industry standards nationally or internationally. It is also important to note that Kapi'olani Community College already has a Certification for Hawaii's Professional Guides:

<https://continuinged.kapiolani.hawaii.edu/state-of-hawaii-certification-for-tour-drivers-and-guides/#prep>.

The proposed measure requires any tour company that has a commercial use permit in state parks, boat harbors, and ocean recreational areas to have UH certify one-third of their staff that have direct contact with visitors as professional tour guides. This suggests an unknown impact on our campuses and, in addition, the potential regulatory implications would need to be assessed for impact on college resources. Close coordination with other agencies such as DNLR and the Aha Moku Advisory Committee as put forward in the bill seems to require more assessment regarding what this engagement would entail.

In sum, there seem to be several unknowns concerning unclear impacts on a campus or multiple campuses, as well as unknown obligations and requirements to collaborate properly with external agencies such as DLNR. Therefore, it appears these issues warrant further study, assessment, and clarification. The University would be happy to be part of further investigation regarding the vision suggested by the bill.



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David Y. Ige
Governor

Chris Tatum
President and Chief Executive Officer

Statement of
CHRIS TATUM

Hawai'i Tourism Authority
before the
SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM
SENATE COMMITTEE ON HIGHER EDUCATION
SENATE COMMITTEE ON WATER AND LAND

Wednesday, February 13, 2019
3:00 PM
State Capitol, Conference Room #414

In consideration of
SENATE BILL NO 364
RELATING TO TOURISM.

Chairs Wakai, Kim, and Kahele, Vice Chairs Taniguchi, Kidani, and Keith-Agaran and members of the Committees on Energy, Economic Development and Tourism, Higher Education and Water and Land: The Hawai'i Tourism Authority (HTA) **supports** Senate Bill 364, which requires applicants for commercial permits in state parks, harbors, ocean recreation management areas, and common carriers transporting passengers, maintain a sustainable tourism certificate from the Hawaii Ecotourism Association, achieve green business recognition by the Hawaii green business program, and ensure that one-third of staff employed by persons whose duties include direct contact with visitors are certified as professional tour guides.

As the State agency tasked with strategically managing, marketing and developing Hawai'i's visitor industry, HTA agrees that it is important to ensure that our guests are presented with consistent and accurate information about Hawaiian history and cultural sites. Senate Bill 364 will help strengthen the tourism industry's efforts, and ultimately the Hawai'i brand, to ensure that Hawaiian culture is portrayed authentically and that the tourism industry and our visitors understand the importance of protecting Hawai'i's natural environment.

It is for these reasons that the HTA **supports** Senate Bill 364. We appreciate this opportunity to provide testimony.

SB-364

Submitted on: 2/7/2019 10:53:09 AM

Testimony for EET on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Owen Miyamoto	Individual	Oppose	No

Comments:

I oppose sb364 which fails to include tour operators flying sight-seeing helicopters and fixed wing aircraft.

SB-364

Submitted on: 2/7/2019 12:27:13 PM

Testimony for EET on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Matson	Individual	Support	No

Comments:

SB-364

Submitted on: 2/12/2019 12:37:24 PM

Testimony for EET on 2/13/2019 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Antoinette M Davis	Individual	Oppose	No

Comments:

Aloha Chairs & Co-Chairs,

Clearly, it is inappropriate to legislate business to business relationships. Businesses should make up their own mind if they should be a member of an association. The government shouldn't tell people that you have to belong to any association.

If it were a government certification, then the government should be the regulator of this and not have a "non-profit" benefit from a law that was put into place because that organization issues certificates saying that you are certified. THIS IS INAPPROPRIATE. We oppose this legislation as it is worded.

That being said we support tours, as well as ALL BUSINESSES being certified as sustainable and environmentally "green". There are many resources which provide this certification, most respected being at the international level for example requiring businesses be B Corporations! An excellent concept, it's inappropriate as this is a private company issuing the certifications. (B Corporations are companies that voluntarily meeting higher standards of "social and environmental performance, accountability, and transparency" in an effort to be more sustainable. B Corps are certified by the [non-profit B Lab](#) (based in the US). It's a global certification, with more than 950 B Corporations in 32 countries. Another excellent organization is [GreenGlobe](#). There is a better way to accomplish the goal of this legislation.



New Zealand has a great model

Environmental Choice is an independent environmental label that is owned by *the New Zealand Government*. The label is given to environmentally-friendly products, and the specifications for certification vary by product. Consider a similar label for Hawaii

and focus on Tours. The goals of the label include working towards compliance with international standards, providing a credible national environmental label, establishing mutual recognition agreements with similar certifications, and providing a market incentive for producers and sellers of environmentally friendly Tours.

It maybe that like New Zealand, this is expanded to all products being produced in Hawiaii. After all don't we want all Businesses while makingn it easy for consumers to find products that are focused on sustainability and environmental standards.

This makes GREAT Sense! Common sense, which these days seems less common.

Please know that A3H, established in 1998 which lobbies for consumer protection, while also representing the concerns of our members (Activities & Attractions in Hawaii) requires all members be properly licensed, permitted and insured. We actively support the visitor industry, our local communities and we support HEA. We do not support government in this format legislating business to business relationships. It is that simple.

Mahalo,

Toni Marie Davis/Executive Director
Activities & Attractions Association of Hawaii



February 13, 2019

**TESTIMONY BEFORE THE SENATE COMMITTEES ON
ENERGY, ECONOMIC DEVELOPMENT & TOURISM
AND ON HIGHER EDUCATION, AND ON WATER & LAND
ON SB 364 RELATING TO TOURISM**

Thank you Chairs Wakai, Mercado-Kim, and Kahele, and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

We have concerns about adding layers of bureaucracy to the industry, and creating additional cost.

The Hawaii Green Business Program and the Hawaii Ecotourism Association have programs available on a voluntary basis. Certification and membership in these programs are a badge of honor that is touted in marketing actions.

The tour guide training that the University of Hawaii will be tasked to design and implement will have an unknown cost associated with it, while there is already a free program conducted by the Hawaii Tourism Authority. This program has been very successful for years.

Tour guide training should be applicable to those who actually conduct tours. It should not apply to anyone who has direct contact like greeters, drivers, etc. unless they are expected to provide information that a tour guide would.

Mahalo.